

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 341

Citations Affected: IC 3-5-8-2; IC 3-5-8-3; IC 3-6; IC 3-8; IC 3-10; IC 3-11; IC 3-12; IC 3-13-2-1.5; IC 3-14-5-1; IC 3-14-5-2; IC 9-13-1-4; IC 12-7-1-3; IC 16-18-1-3; IC 20-3-22-5; IC 20-3-22-9; IC 20-4; IC 20-23; IC 36-2-3-4; IC 36-3-4-3; IC 36-4-6; IC 36-5-2-4.1; IC 36-6-6-2.5.

Synopsis: Various election law matters. Conference committee report for ESB 341. Authorizes imposition of civil penalties on precinct election officers who fail to perform their duties. Establishes a certified election worker program for education of precinct election officers and county election officials. Resolves a conflict in current law regarding voting in municipal elections by voters who no longer reside in a municipality. Permits a county voter registration office to update a voter's registration record by examining the poll list after election day to determine if certain first time voters have submitted documentation required under the Help America Vote Act. Specifies when affidavits executed by certain challenged voters are required to be forwarded by the county election board to the prosecuting attorney. Makes various changes to election law relating to the following: (1) Appeal of county election board decisions. (2) Precinct election officer status, training, and duties. (3) Identification of challengers, watchers, and pollbook holders. (4) Filing election related documents. (5) Withdrawal of candidates. (6) Disqualification of candidates. (7) Town convention procedures. (8) Listing of names of candidates on the ballot. (9) Requirements for the numbers of ballots provided to precincts. (10) Handling of ballots and other election materials. (11) Location of precincts. (12) Location of challengers. (13) Resolution of tie votes in elections for certain offices. (14) Filling candidate vacancies. (15) Filing petitions of nomination for school board elections. Removes obsolete date references, and updates other references. Repeals obsolete provisions. Resolves conflicts between SB 341 and the Title 20 recodification bill. **(This conference committee report removes the provisions relating to the time of election of certain county officers. The conference committee report also reconciles conflicts between this bill and SEA 14, SEA 15, SEA 482, ESB 480, and EHB 1407.)**

Effective: Upon passage; July 1, 2005.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 341 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 3-5-4-1.7 IS ADDED TO THE INDIANA CODE
- 3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2005]: **Sec. 1.7. Except as otherwise expressly authorized**
- 5 **or required under this title, a filing by a person with a commission,**
- 6 **the election division, or an election board may not be made by fax**
- 7 **or electronic mail.**
- 8 SECTION 2. IC 3-5-4-7 IS AMENDED TO READ AS FOLLOWS
- 9 [EFFECTIVE JULY 1, 2005]: Sec. 7. Except as otherwise provided in
- 10 this title, a reference to a federal statute or regulation in this title is a
- 11 reference to the statute or regulation as in effect January 1, ~~2003~~ **2005**.
- 12 SECTION 3. IC 3-5-4-9 IS AMENDED TO READ AS FOLLOWS
- 13 [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section applies ~~after~~
- 14 ~~December 31, 2003~~, whenever the individual who holds the office of
- 15 circuit court clerk is a candidate on the ballot for any office.
- 16 (b) As used in this section, "ballot" refers to an absentee ballot, a
- 17 ballot card, or any other form of ballot.
- 18 (c) Notwithstanding any law requiring the name or signature of the
- 19 circuit court clerk to appear on a ballot for authentication or any other
- 20 purpose, the name or signature of the individual who is circuit court
- 21 clerk may not appear on the ballot except to indicate that the individual
- 22 is a candidate for an office.
- 23 (d) The circuit court clerk shall substitute a uniform device or symbol

prescribed by the commission for the circuit court clerk's printed name or signature to authenticate a ballot.

SECTION 4. IC 3-5-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~(a)~~ The statement required by section 1 of this chapter must contain the following:

- (1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.
- (2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.
- (3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in the election.
- (4) A statement describing how a voter who is challenged at the polls may be permitted to vote.
- (5) The date of the election and the hours during which the polls will be open, as required by 42 U.S.C. 15482.
- (6) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot, as required by 42 U.S.C. 15482.
- (7) Instructions for mail-in registrants and first time voters under IC 3-7-33-4.5 and 42 U.S.C. 15483, as required under 42 U.S.C. 15482.
- (8) General information on voting rights under applicable federal and state laws, including the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated, as required under 42 U.S.C. 15482.
- (9) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation, as required under 42 U.S.C. 15482.
- (10) A statement informing the voter what assistance is available to assist the voter at the polls.
- (11) A statement informing the voter what circumstances will spoil the voter's ballot and the procedures available for the voter to request a new ballot.
- (12) A statement describing which voters will be permitted to vote at the closing of the polls.
- (13) Other information that the commission considers important for a voter to know.

~~(b) The voter's bill of rights is not required to contain the information described in subsection (a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) before January 1, 2004.~~

SECTION 5. IC 3-5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As required by 42 U.S.C. 15483, ~~and after December 31, 2003~~, the precinct election board shall post the voter's bill of rights in a public place in each polling place on election day.

(b) The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters.

SECTION 6. IC 3-6-5-3 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person who is a candidate for elected office or ~~after December 31, 2004~~, a member of a candidate's committee may not be appointed as:

- (1) a member of a county election board;
- (2) a proxy of record for a member under section 4.5 of this chapter; or
- (3) an alternate proxy of record for a member under section 4.5 of this chapter.

(b) If an appointed member, a proxy, or an alternate proxy becomes:

- (1) a candidate for elected office; or
- (2) ~~after December 31, 2004~~, a member of a candidate's committee;

the member, proxy, or alternate proxy may not continue to serve on the county election board.

(c) An appointed member, a proxy, or an alternate proxy may not hold elected office while serving on the county election board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 7. IC 3-6-5-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 34. Except as expressly provided by statute, an appeal may be taken from a decision of a county election board to the circuit court. An appeal taken under this section must be filed not later than thirty (30) days after the board makes the decision subject to the appeal.**

SECTION 8. IC 3-6-5-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 35. (a) An individual who knowingly, recklessly, or negligently fails to perform a duty as a precinct election officer required by this title is subject to a civil penalty under this section in addition to any other penalty imposed.**

(b) If the county election board determines, by unanimous vote of the entire membership of the board, that an individual serving as a precinct election officer has failed to perform a duty required by this title, the board shall assess the individual a civil penalty of not more than five hundred dollars (\$500).

(c) A civil penalty assessed under this section may be deducted from any compensation that the individual may otherwise be entitled to under IC 3-6-6.

SECTION 9. IC 3-6-5.2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) ~~This section applies after December 31, 2004.~~ A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.

(b) If an appointed member becomes a:

- (1) candidate for elected office; or
- (2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 10. IC 3-6-5.2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~(a) As used in this section, before July 1, 1999, "board" refers to the combined county election board and board of registration.~~

~~(b)~~ The board may, by a vote of a majority of the members of the board, hire attorneys to provide legal services for the board, as determined by the board.

SECTION 11. IC 3-6-5.2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. Except as expressly provided by statute, an appeal may be taken from a decision of the board to the circuit court. An appeal taken under this section must be filed not later than thirty (30) days after the board makes the decision subject to the appeal.**

SECTION 12. IC 3-6-5.4-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) ~~This section applies after December 31, 2004.~~ A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.

(b) If an appointed member becomes a:

(1) candidate for elected office; or

(2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 13. IC 3-6-5.4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. Except as expressly provided by statute, an appeal may be taken from a decision of the board to the circuit court. An appeal taken under this section must be filed not later than thirty (30) days after the board makes the decision subject to the appeal.**

SECTION 14. IC 3-6-6-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) When the county election board (or a precinct election board acting on behalf of the county election board) appoints a precinct election officer and the individual accepts the appointment by swearing the oath of office required under this chapter, a contract is created between the county election board and the individual in which the county election board retains the services of the precinct election officer as an independent contractor.

(b) The appointment of a precinct election officer expires when the county election board completes the canvass of the precinct under IC 3-12-4.

(c) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, the position of precinct election officer is not a lucrative office.

SECTION 15. IC 3-6-6-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) The county

election board by unanimous vote of the entire membership of the board may permit an individual who is not a voter to serve as any precinct election officer (other than inspector), or to assist a precinct election officer, if the individual satisfies all the following:

- (1) The individual is at least sixteen (16) years of age but not more than seventeen (17) years of age.
- (2) The individual is a citizen of the United States.
- (3) The individual is a resident of the county.
- (4) The individual has a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale.
- (5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment or, if the student is educated in the home, the approval of the individual responsible for the education of the student.
- (6) The individual has the approval of the individual's parent or legal guardian.
- (7) The individual has satisfactorily completed any training required by the county election board.
- (8) The individual otherwise is eligible to serve as a precinct election officer under this chapter.

(b) ~~After January 1, 2004,~~ An individual appointed to a precinct election office or assistant under this section:

(1) must serve in a nonpartisan manner in accordance with the standards developed by the Help America Vote Foundation under 36 U.S.C. 152602; and

(2) **while serving as a precinct election officer or assistant:**

(A) is not required to obtain an employment certificate under IC 20-33-3; and

(B) is not subject to the limitations on time and duration of employment under IC 20-33-3.

SECTION 16. IC 3-6-6-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40. (a) The county election board shall conduct a training and educational meeting for precinct election officers.

(b) The board shall require inspectors to attend the meeting and may require other precinct election officers to attend the meeting. **The board shall maintain a record of the attendance of each individual at the meeting conducted under this subsection.**

(c) The meeting required under this section must include information:

- (1) relating to making polling places and voting systems accessible to elderly voters and disabled voters; and
- (2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

(d) The meeting required by this section must be held not later than the day before election day.

(e) If an individual:

- (1) is appointed as a precinct election officer after the training and educational meeting conducted under this section; or
- (2) demonstrates to the county election board that the individual was unable to attend the meeting due to good cause;

the county election board may authorize the individual to serve as a precinct election officer if the county election board determines that there is insufficient time to conduct the training required by this section.

SECTION 17. IC 3-6-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 6.5. Certified Election Worker Program

Sec. 1. The certified election worker program is established.

Sec. 2. The program must consist of courses in several aspects of precinct election administration, including the following:

(1) The duties of precinct election officers and county election officials.

(2) The laws governing activity permitted and prohibited in polling places.

(3) The laws and procedures governing the operation of voting systems.

(4) The laws governing voter registration, absentee ballots, provisional ballots, and the tabulation of ballots.

(5) Effective communication and problem solving techniques.

Sec. 3. The secretary of state:

(1) shall administer the program; and

(2) may establish procedures and requirements for the certification of an individual who satisfactorily completes the program.

Sec. 4. The designation of an individual as a certified election worker expires January 1 of the fourth year following the individual's certification. The individual's certification may be renewed by the secretary of state after compliance with the requirements for renewal established under this chapter.

SECTION 18. IC 3-6-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Each political party or independent candidate may appoint challengers and pollbook holders for each precinct in which the political party or independent candidate is on the ballot.

(b) This subsection applies to a public question that is submitted to the electorate. A county election board may appoint challengers and pollbook holders if a petition requesting the appointment is filed with the board. The petition must be signed by:

(1) the chairman of a political action committee organized under IC 3-9 to support or oppose the approval of the public question; and

(2) at least the number of voters equal to two percent (2%) of the votes cast in the last election for secretary of state in the county.

(c) A challenger must be at least eighteen (18) years of age.

(d) The county election board, county chairman, other local chairman of the party, or independent candidate:

(1) must make the appointments in writing; and

(2) shall issue one (1) identification card for each person appointed under this section.

(e) Each political party or independent candidate described in subsection (a) or a political action committee described in subsection

(b) may have only one (1) challenger and one (1) pollbook holder present at each precinct's polls at any time during election day. The challenger and pollbook holder present at the polls must possess an identification card issued under subsection (d).

(f) The identification card issued under subsection (d) must clearly state the following:

(1) The status of the individual as an appointed challenger or pollbook holder.

(2) The name of the individual serving as a challenger or pollbook holder.

(3) The name of the person who appointed the individual as a challenger or pollbook holder, and whether the person is a political party, an independent candidate, or a county election board.

(4) If the challenger or pollbook holder has been appointed by a political party, the name of the political party.

SECTION 19. IC 3-6-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A pollbook holder **or a challenger** appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until the polls close.

(2) Enter, leave, and reenter the polls at any time on election day.

(b) A pollbook holder **or a challenger** is subject to the orders of the board while in the polls.

(c) If demanded by a member of the precinct election board, a pollbook holder **or a challenger** shall produce the identification card issued under section 1(d) of this chapter.

SECTION 20. IC 3-6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A watcher present at the polls must possess an identification card issued under this section and present the card if demanded by a member of the precinct election board.

(b) The county election board, county chairman, or chairman of the committee of the independent candidate for a federal or a state office:

(1) must appoint each watcher in writing; and

(2) shall issue one (1) watcher identification card for each person appointed as a watcher.

(c) The identification card must be signed by the chairman of the county election board, county chairman of the party, or chairman of the committee of the independent candidate for a federal or a state office that the watcher represents.

(d) The identification card described in subsection (a) must clearly state the following:

(1) The status of the individual as an appointed watcher.

(2) The name of the individual serving as a watcher.

(3) The name of the person who appointed the individual as a watcher.

(4) If the individual has been appointed as a watcher by a political party, the name of the political party.

SECTION 21. IC 3-6-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. When the attorney-in-fact has

certified the names of the watchers in writing under section 4 of this chapter to the circuit court clerk, the clerk shall immediately issue certificates to the persons named. The certificates entitle the watchers to go to the precincts designated in the statement. Each watcher's credentials must state the **following**:

(1) **The name of the attorney-in-fact who certified the watcher to the clerk.**

(2) **The status of the individual as a watcher appointed under this chapter.**

(3) **The name of the individual serving as a watcher.**

(4) **If the watcher is acting on behalf of a school board candidate, or a group of political party candidates, the name of the school board candidate or political party whose candidates have petitioned for watchers under this chapter.**

SECTION 22. IC 3-6-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each person who acts as a watcher under this chapter must obtain a watcher identification card from the county election board. **The identification card issued under this subsection must clearly state the following:**

(1) **The status of the individual as an appointed watcher.**

(2) **The name of the individual serving as a watcher.**

(3) **The name of the person that appointed the individual as a watcher.**

(b) Watchers appointed under this chapter do not have a voice or vote in any proceeding of a precinct election board. The watchers may attend the election as witnesses only and are subject to the orders of the board.

(c) Except as provided in subsection (d), a watcher appointed under this chapter may photograph the proceedings of a precinct election board.

(d) A watcher appointed under this chapter may not photograph a voter:

(1) while the voter is in the polls if the voter informs the precinct election board that the voter objects to being photographed by the watcher; or

(2) in a manner that permits the watcher to see or know for what ticket, candidates, or public questions the voter has voted.

SECTION 23. IC 3-8-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a primary election must be filed ~~no~~ **not** later than noon seventy-four (74) days and ~~no~~ **not** earlier than one hundred four (104) days before the primary election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate must be filed:

(1) **not earlier than the first date specified in IC 3-8-6-10(b) for the timely filing of a petition of nomination; and**

(2) not later than noon on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.

The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(c) During a year in which a federal decennial census, federal special

census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a declaration of:

(1) candidacy may be filed for an office that will appear on the primary election ballot; or

(2) intent to be a write-in candidate for an office that will appear on the general, municipal, or school board election ballot;

that year as a result of the new tabulation of population or corrected population count.

SECTION 24. IC 3-8-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A declaration of candidacy may be made by mail and is considered filed as of the date and hour it is received **the filing occurs in the manner described by IC 3-5-2-24.5** in the office of the election division or circuit court clerk.

~~(b) A declaration of candidacy may not be made by telegraph or facsimile transmission.~~

~~(c)~~ **(b)** A declaration is not valid unless received in the office of the election division or circuit court clerk by noon on the seventy-fourth day before a primary election.

~~(d) An officer receiving a declaration may require information supporting the eligibility of the candidate and, where applicable;~~ **(c) This subsection applies to a candidate required to file a statement of economic interest under IC 2-2.1-3-2 or IC 33-23-11-15 or a financial disclosure statement under IC 4-2-6-8. The election division shall require the candidate to produce a:**

(1) copy of the statement, file stamped by the office required to receive the statement of economic interests; or

(2) receipt showing that statements of economic interest or other prerequisite filings have the statement has been made filed; before the ~~officer~~ **election division** accepts the declaration for filing. **The election division shall reject a filing that does not comply with this subsection.**

SECTION 25. IC 3-8-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. **(a)** A person who files a declaration of candidacy under this chapter may, at any time not later than noon seventy-one (71) days before the date set for holding the primary election, file a statement with the same office where the person filed the declaration of candidacy, stating that the person is no longer a candidate and does not wish the person's name to appear on the primary election ballot as a candidate.

(b) A candidate who is disqualified from being a candidate under IC 3-8-1-5 must file a notice of withdrawal immediately upon becoming disqualified. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

(c) A candidate who has moved from the election district the candidate sought to represent must file a notice of withdrawal immediately after changing the candidate's residence. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

SECTION 26. IC 3-8-3-9, AS AMENDED BY SEA 482-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Each circuit court clerk shall,

not later than noon Monday after the day the primary election is held, send to the election division by certified mail or hand delivery one (1) complete copy of all returns for presidential candidates. The clerk shall state the number of votes received by each candidate in each congressional district within the county.

(b) ~~The A~~ statement described in subsection (a) may be sent by using the computerized list established under IC 3-7-26.3. A statement sent under this ~~subsection~~ **section** complies with any requirement for the statement to be certified or sealed.

SECTION 27. IC 3-8-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Delegates to a state convention shall be chosen at the primary election conducted by the political party on the first Tuesday after the first Monday in May ~~2000~~ **2006** and every two (2) years thereafter. If provided in the rules of the state committee of the political party, delegates may be elected from delegate districts in each county.

(c) Not later than noon November 30 of the year preceding the year in which the state convention is to be conducted, the state chairman of a political party shall certify the following to the election division and to each county committee of the party:

(1) The number of delegates to be elected in each county.

(2) Whether the delegates are to be elected from districts or at large in each county.

(3) If a county is to elect delegates from districts, how many districts must be established in each county.

(d) The county committee shall establish any delegate districts required to be established under subsection (c) and file descriptions setting forth the district boundaries with the county election board not later than noon December 31 of the year preceding the year the state convention is to be conducted. If the county committee does not timely file district descriptions under this subsection, the county election board shall establish districts not later than the first day that a declaration of candidacy may be filed under IC 3-8-2-4, and apportion the delegates to be elected from each district in accordance with subsection (c).

SECTION 28. IC 3-8-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If more than one (1) candidate from the same political party files a declaration of candidacy for the same office, that political party shall conduct:

(1) a town convention under this chapter; or

(2) a primary election;

to choose the nominee of that party for that office as provided in the ordinance adopted under section 2 of this chapter.

(b) If a town convention is required under subsection (a), the town chairman shall organize, conduct, and issue a call for a town convention to be held in the town, or, if there is no suitable location in the town, then either at the nearest available location within any county in which the town is located or at the county seat of any county in which the town is located.

(c) The convention must be held before August 21 in each year in

1 which a municipal election is to be held. The purpose of the convention
 2 is to select the nominees for all town offices to be elected at the next
 3 municipal election and for which more than one (1) declaration of
 4 candidacy has been filed.

5 (d) The chairman shall file a notice of the call with the circuit court
 6 clerk of the county containing the greatest percentage of population of
 7 the town. The chairman shall also have notice of the call posted at least
 8 three (3) days in three (3) prominent public places in the town,
 9 including the office of the clerk-treasurer. The notice must state the
 10 time, place, and purpose of the convention.

11 **(e) If the county chairman determines that an emergency**
 12 **requires the rescheduling of a town convention after notice has**
 13 **been given under subsection (d), the chairman shall promptly file**
 14 **a notice in the office of the county election board and in the office**
 15 **of the town clerk-treasurer stating the date, time, and place of the**
 16 **rescheduled convention.**

17 SECTION 29. IC 3-8-5-12 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The town
 19 chairman and secretary of each town political party committee shall act
 20 as chairman and secretary of their respective conventions.

21 (b) As the first item of convention business, the town chairman shall
 22 make the initial determination regarding which individuals are eligible
 23 to vote in the town convention under section 11 of this chapter. If an
 24 individual objects to the determination of the chairman, the matter shall
 25 be put to the vote of all those individuals whose eligibility to vote is not
 26 in dispute.

27 (c) As the second item of convention business, the town chairman
 28 shall submit copies of proposed rules to the members of the convention
 29 for adoption. The rules must provide for at least the following:

30 (1) The voting method to be used for nominating candidates at the
 31 convention.

32 (2) The method to be used for resolving tie votes.

33 (3) Any method for removing candidates from consideration by the
 34 convention if no candidate receives a majority vote from all voters
 35 casting a ballot at the convention.

36 (4) The rights of nonvoting observers, media, candidate watchers,
 37 or others attending the convention.

38 (d) If the town chairman of the political party committee is unable or
 39 unwilling to act as chairman of the convention, the secretary acts as
 40 chairman until the convention elects a chairman of the convention from
 41 among the voters attending the convention. If the town secretary of the
 42 political party committee is unable or unwilling to act as secretary of the
 43 convention, the convention shall elect a secretary of the convention
 44 from among the voters attending the convention.

45 (e) After adoption of the convention rules, the convention may
 46 proceed to vote on the candidates to be nominated. The candidates for
 47 town offices must be nominated by a majority of the voters present and
 48 voting.

49 **(f) The town convention may recess and reconvene if a majority**
 50 **of eligible voters at the convention adopt a motion to recess and**
 51 **reconvene. The motion must state the date, time, and location of the**

1 **reconvening of the convention. However, a convention may not**
 2 **reconvene on a date following the final date permitted for a**
 3 **convention to be convened under section 10 of this chapter.**

4 SECTION 30. IC 3-8-6-5 IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A petition of nomination
 6 must state all of the following:

7 (1) The name of each candidate as:

8 (A) the candidate wants the candidate's name to appear on the
 9 ballot; and

10 (B) the candidate's name is permitted to appear on the ballot
 11 under IC 3-5-7.

12 (2) The address of each candidate, including the mailing address,
 13 if different from the residence address of the candidate.

14 (3) The office that each candidate seeks.

15 (4) The information required under IC 3-10-4-5, if the petition
 16 nominates candidates for presidential electors.

17 (5) That the petitioners desire and are registered and qualified to
 18 vote for each candidate.

19 (6) Whether the candidate is affiliated with the same political party
 20 as any other candidate or group of candidates that has filed or will
 21 be filing a petition of nomination with the county voter registration
 22 office under section 10 of this chapter. This subdivision

23 ~~(A) applies after December 31, 2004; and~~

24 ~~(B) does not apply to an independent candidate.~~

25 (b) A petition of nomination must:

26 (1) designate a brief name of the political party that the candidates
 27 represent;

28 (2) indicate that the candidate is an independent candidate; or

29 (3) indicate that the candidates are an independent ticket.

30 (c) If a political party has previously filed a device with the election
 31 division under IC 3-8-7-11, the petition may incorporate that device by
 32 reference in the petition. If a political party has not previously filed a
 33 device under IC 3-8-7-11, or the petition is for an independent ticket,
 34 the petition of nomination may include a device for designating the
 35 party or ticket on the ballot.

36 SECTION 31. IC 3-8-7-11 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Except as
 38 provided in subsection (f), if a political party has filed a statement with
 39 the election division (or any of its predecessors) that the device selected
 40 by the political party be used to designate the candidates of the political
 41 party on the ballot for all elections throughout the state, the device must
 42 be used until:

43 (1) the device is changed in accordance with party rules; and

44 (2) a statement concerning the use of the new device is filed with
 45 the election division.

46 (b) Except as provided in subsection (c), the device may be any
 47 appropriate symbol.

48 (c) A political party or an independent candidate may not use as a
 49 device:

50 (1) a symbol that has previously been filed by a political party or
 51 candidate with the election division (or any of its predecessors);

- (2) the coat of arms or seal of the state or of the United States;
- (3) the national or state flag; or
- (4) any other emblem common to the people.

(d) Not later than noon, August 20, before each **general or municipal** election,

~~(1) the state chairman of each political party whose candidates are to be certified under this section; or~~

~~(2) an individual filing a petition of nomination for candidates to be certified under this section;~~

~~shall file with the election division~~ **shall provide each county election board with** a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose ~~name or device is not filed with the election division under subsection (a) and is~~ to be printed only on ballots ~~prepared by a county election board~~ **to identify candidates for election to a local office**. Not later than noon, August 20, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by the town election board.

(f) If a copy of the device is not filed in accordance with subsection ~~(d)~~ **(a)** or (e), or unless a device is designated in accordance with section 26 or 27 of this chapter, the ~~election division~~, county election board or town election board is not required to use any device to designate the list of candidates.

SECTION 32. IC 3-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 8. Removal of Name From Ballot of a Candidate for Legislative or State Offices at a General Election for Disqualification or Withdrawal

Sec. 1. (a) This chapter applies only to a candidate for election to any of the following:

- (1) A legislative office.**
- (2) A state office other than a judicial office.**

(b) This chapter applies notwithstanding any other law relating to challenges to the qualifications of a candidate to be elected at a general election.

Sec. 2. A candidate may not be challenged under this chapter if all of the following apply:

- (1) The candidate's qualification was previously challenged under this chapter or other applicable law.**
- (2) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.**
- (3) The commission conducted a hearing on the challenge and**

1 made a final determination in favor of the candidate.

2 **Sec. 3. (a) An individual who challenges the qualification of a**
 3 **candidate for election to an office must be a registered voter of the**
 4 **election district the candidate seeks to represent.**

5 **(b) A challenge under this chapter must be filed with the election**
 6 **division not later than forty (40) days before the date of the general**
 7 **election at which a candidate to the office is to be elected.**

8 **(c) The challenger must file a sworn statement with the election**
 9 **division:**

10 **(1) questioning the qualification of a candidate to seek the**
 11 **office; and**

12 **(2) setting forth the facts known to the voter concerning this**
 13 **question.**

14 **Sec. 4. The commission shall do the following not later than three**
 15 **(3) business days after the challenger's sworn statement is filed**
 16 **under section 3 of this chapter:**

17 **(1) Meet to hear the challenge.**

18 **(2) Conclude the hearing.**

19 **Sec. 5. (a) Not later than one (1) business day after concluding the**
 20 **hearing, the commission shall announce its determination on the**
 21 **matter.**

22 **(b) If the commission does not announce a determination on the**
 23 **matter as provided in subsection (a), the commission is considered**
 24 **to have:**

25 **(1) dismissed the challenge; and**

26 **(2) taken final action on the challenge.**

27 **Sec. 6. The candidate or the challenger may appeal any final**
 28 **action:**

29 **(1) that the commission has taken; or**

30 **(2) that the commission is considered to have taken under**
 31 **section 5 of this chapter;**

32 **to the court of appeals for errors of law under the same terms,**
 33 **conditions, and standards that govern appeals in ordinary civil**
 34 **actions. An assignment of errors that the commission's final action**
 35 **is contrary to law is sufficient to present both the sufficiency of the**
 36 **facts found to sustain the commission's action and the sufficiency**
 37 **of the evidence to sustain the finding of facts upon which the**
 38 **commission's action was rendered.**

39 **Sec. 7. (a) Regardless of the status of a challenge before the**
 40 **commission or the court of appeals, at noon thirty (30) days before**
 41 **the general election the following apply:**

42 **(1) The challenge is terminated.**

43 **(2) The name of the challenged candidate may not be removed**
 44 **from the ballot.**

45 **(3) The name of another individual may not replace the name**
 46 **of the challenged candidate on the ballot.**

47 **(4) Any votes cast for the challenged candidate shall be**
 48 **canvassed, counted, and reported under the name of the**
 49 **challenged candidate.**

50 **(b) All of the following apply if a candidate attempts to withdraw**
 51 **as a candidate after noon thirty (30) days before the general**

election:

(1) The name of the candidate may not be removed from the ballot.

(2) The name of another individual may not replace the name of the candidate on the ballot.

(3) Any votes cast for the candidate shall be canvassed, counted, and reported under the name of the candidate.

Sec. 8. (a) This section applies if a candidate whose name remains on the ballot under section 7 of this chapter receives the most votes in the general election among all candidates for the office.

(b) If, after the election, it is determined as provided by law that the individual was not qualified to be elected to the office, it shall be considered that:

(1) an eligible candidate of the same political party, if any, as the ineligible candidate had been elected; and

(2) a vacancy in the office occurred after the election.

(c) The vacancy in the office shall be filled as otherwise provided by law.

SECTION 33. IC 3-10-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) Precinct committeemen shall be elected on the first Tuesday after the first Monday in May ~~2002~~ **2006** and every four (4) years thereafter.

(b) The rules of a political party may specify whether a precinct committeeman elected under subsection (a) continues to serve as a precinct committeeman after the boundaries of the precinct are changed by a precinct establishment order issued under IC 3-11-1.5.

SECTION 34. IC 3-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **(a) In those precincts where ballot card voting systems are to be used**, each county election board shall prepare and distribute separate primary ~~paper~~ ballots for each political party participating in a primary election **at least** equal in number to one hundred percent (100%) of the number of votes cast ~~by~~ **for the candidate of** the party **who received the greatest number of votes cast in each the** precinct at the last general election. ~~If voting machines, ballot card voting systems, or~~

(b) In those precincts where electronic voting systems are **to be** used, the board shall determine the number of ~~emergency paper~~ ballots **required** to be printed and furnished to the precincts **for emergency purposes only**.

SECTION 35. IC 3-10-1-31.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified

petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

(1) IC 3-12-6-19 or IC 3-12-11-16; or

(2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) ~~This subsection applies before January 1, 2006.~~ Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;

(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

(3) a change of name made under IC 3-7-41;

(4) adding the registration of a voter under IC 3-7-48-8; or

(5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

~~(f) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:~~

~~(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;~~

~~(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;~~

~~(3) a change of name made under IC 3-7-41; or~~

~~(4) adding the registration of a voter under IC 3-7-48-8;~~

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d):

~~(g) (f)~~ This subsection does not apply to ballots. Notwithstanding

subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

(h) (g) After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 36. IC 3-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Electors for President and Vice-President of the United States shall be elected in ~~2000~~ **2008** and every four (4) years thereafter at a general election held in accordance with 3 U.S.C. 1.

SECTION 37. IC 3-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. United States Senators shall be elected at a general election held in accordance with 2 U.S.C. 1 and as follows:

(1) One (1) in ~~2000~~ **2006** and every six (6) years thereafter.

(2) One (1) in ~~2004~~ **2010** and every six (6) years thereafter.

SECTION 38. IC 3-10-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The following public officials shall be elected in ~~2000~~ **2008** and every four (4) years thereafter:

(1) Governor.

(2) Lieutenant governor.

(3) Attorney general.

(4) Superintendent of public instruction.

SECTION 39. IC 3-10-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The following public officials shall be elected in ~~2002~~ **2006** and every four (4) years thereafter:

(1) Secretary of state.

(2) Auditor of state.

(3) Treasurer of state.

SECTION 40. IC 3-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. A prosecuting attorney shall be elected in each judicial circuit in ~~2002~~ **2006** and every four (4) years thereafter in accordance with Article 7, Section 16 of the Constitution of the State of Indiana.

SECTION 41. IC 3-10-4-1, AS AMENDED BY SEA 14-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The names of the candidates of:

(1) a political party;

(2) a group of petitioners under IC 3-8-6; or

(3) a write-in candidate for the office of President or Vice President of the United States under IC 3-8-2-2.5;

for electors of President and Vice President of the United States may not be placed on the ballot.

(b) The names of the nominees for President and Vice President of

the United States of each political party or group of petitioners shall be placed:

(1) in one (1) column on the ballot if paper ballots are used; **or**
~~(2) on one (1) ballot label in one (1) column or row if voting machines are used;~~

~~(3)~~ **(2)** either:

(A) grouped together on a separate screen; or

(B) grouped together below the names of the offices as specified in IC 3-11-14-3.5;

if an electronic voting system is used; or

(4) grouped together below the names of the offices as specified in IC 3-11-13-11 if a ballot card is used.

(c) ~~The name of each ballot must permit a voter to cast a ballot for~~
 a write-in candidate for the office of President or Vice President of the United States ~~shall be placed as in the manner~~ provided under IC 3-11-2-6.

SECTION 42. IC 3-10-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as otherwise provided in this chapter, a municipal primary election shall be held on the first Tuesday after the first Monday in May ~~2003~~ **2007** and every four (4) years thereafter.

(b) Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall nominate all candidates to be voted for at the municipal election to be held in November.

SECTION 43. IC 3-10-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter each political party shall, at the primary election in:

(1) May ~~2002~~ **2006** and every four (4) years thereafter; and

(2) May ~~2003~~ **2007** and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(a) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(b) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in:

(1) May ~~2002~~ **2006** and every four (4) years thereafter; and

(2) May ~~2004~~ **2008** and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(b) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(c) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in May ~~2004~~ **2008** and every four (4) years thereafter, nominate candidates for the election to be held under section 6(c) of this chapter, unless a primary election is not required under

section 4 of this chapter. The primary election shall be held under this chapter.

SECTION 44. IC 3-10-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter shall:

(1) at the general election in November ~~2002~~ **2006** and every four (4) years thereafter; and

(2) at the municipal election in November ~~2003~~ **2007** and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall:

(1) at the general election in November ~~2002~~ **2006** and every four (4) years thereafter; and

(2) at the general election in November ~~2004~~ **2008** and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November ~~2004~~ **2008** and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under IC 33-35-1-1) to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

SECTION 45. IC 3-10-7-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) A town election board shall appoint a precinct election board for each precinct in the town.

(b) If a precinct is wholly or partly in the town, the town election board may designate the polls for the precinct to be at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct.

(c) If a precinct election board administers more than one (1) precinct under subsection (b), the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

~~(c)~~ **(d)** Each precinct election board consists of:

(1) one (1) inspector; and

(2) two (2) judges of opposite political parties.

(e) The members of a precinct election board must be voters who reside in the town.

SECTION 46. IC 3-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

(1) under a court order under IC 3-12-8; or

(2) for a local public question;

the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

(1) under a court order under IC 3-12-8 for a school board office;

or

(2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. If the board has adopted a resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board. A resolution adopted under this subsection may not be rescinded by the county election board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

(1) The inspector shall be nominated by the county chairman entitled to nominate an inspector under IC 3-6-6-8.

(2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.

(3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

(4) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

SECTION 47. IC 3-10-12-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.4. (a) This section applies to a voter who:**

(1) changes residence from a precinct in a county to another precinct:

(A) in the same county; and

1 **(B) in the same congressional district;**
 2 **as the former precinct; and**
 3 **(2) does not notify the county voter registration office of the**
 4 **change of address before election day.**
 5 **(b) A voter described by subsection (a) may:**
 6 **(1) correct the voter registration record; and**
 7 **(2) vote in the precinct where the voter formerly resided;**
 8 **if the voter makes an oral affirmation as described in subsection (e)**
 9 **or a written affirmation as described in section 4 of this chapter of**
 10 **the voter's current residence address.**
 11 **(c) A voter who moved outside of a municipality may not return**
 12 **to the precinct where the voter formerly resided to vote in a**
 13 **municipal election.**
 14 **(d) A voter who moved from a location outside a municipality to**
 15 **a location within a municipality within thirty (30) days before a:**
 16 **(1) municipal primary election;**
 17 **(2) municipal election; or**
 18 **(3) special election held only within the municipality;**
 19 **may not vote in the election in the precinct of the person's former**
 20 **residence.**
 21 **(e) A voter entitled to make a written affirmation under**
 22 **subsection (b) may make an oral affirmation. The voter must make**
 23 **the oral affirmation before the poll clerks of the precinct. After the**
 24 **voter makes an oral affirmation under this subsection, the poll**
 25 **clerks shall:**
 26 **(1) reduce the substance of the affirmation to writing at an**
 27 **appropriate location on the poll list; and**
 28 **(2) initial the affirmation.**
 29 SECTION 48. IC 3-10-12-3.5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. After
 31 December 31, 2005, the written affirmation described in ~~section 3~~
 32 **section 3.4** of this chapter must include the person's voter identification
 33 number to permit transfer of the registration under IC 3-7-13-13.
 34 SECTION 49. IC 3-10-12-4 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The written
 36 affirmation described in ~~section 3~~ **section 3.4** of this chapter may be
 37 executed as follows:
 38 (1) At the ~~office of the circuit court clerk or the board of county~~
 39 **voter registration office** for the county of the precinct of the
 40 person's former residence, not later than 4 p.m. on the day before
 41 the election.
 42 (2) Before the inspector of the precinct of the person's former
 43 residence, if the application and statement are executed on the day
 44 of the election.
 45 (3) When the application for an absentee ballot is filed with the
 46 county election board of the county of the precinct of the person's
 47 former residence.
 48 (b) If the person executes the affidavit under this section at the ~~office~~
 49 **of the circuit court clerk or board of county voter registration office**
 50 before the day of the election, the ~~clerk or board office~~ shall furnish a
 51 copy of the affirmation to the person. The person shall present the copy

to the inspector of the precinct of the person's former residence when the person offers to vote in that precinct under IC 3-11-8.

(c) If the person executes the affirmation under this section when filing an application for an absentee ballot, the county election board shall attach the original or a copy of the affirmation to the person's application for an absentee ballot before the application and ballot are delivered to the inspector of the precinct of the person's former residence.

(d) If the person executes the affirmation under this section before the inspector of the precinct of the person's former residence on the day of the election, the inspector shall return the original affirmation to the ~~circuit court clerk or board of county election board~~. **The county election board shall forward the affidavit to the county voter registration office** after the closing of the polls.

SECTION 50. IC 3-11-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The nominees of a:

(1) major political party;

(2) political party described by IC 3-8-4-10; or

(3) group of petitioners under IC 3-8-6 who are identified by the petition as the nominees of a political party;

shall be listed on the ballots under the name ~~and device~~ of the party or petitioners as designated by them in their certificate or petition. ~~or if none is designated, then under some suitable name and device.~~ If the same device ~~for designating candidates~~ is selected by two (2) parties ~~or groups of petitioners~~, it shall be given to the ~~one (1) party~~ that first selected it, ~~and a suitable~~ **filed the device shall be selected for the other party or group of petitioners under IC 3-8-7-11.**

SECTION 51. IC 3-11-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The county election board shall deliver the following to each inspector or the inspector's representative:

(1) ~~The sealed package of paper ballots, provisional ballots, sample ballots, and any other supplies provided for the inspector's precinct by the election division.~~

(2) The local sample ballots, the ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.

(3) The local ballots printed under the direction of the county election board as follows:

(A) **In those precincts where ballot card voting systems are to be used**, the number of ballots **at least** equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where ~~voting machines, ballot card systems, or~~ electronic voting systems are to be used, the number of ~~paper~~ ballots that will be required **to be printed and furnished to the precincts** for emergency purposes only.

(C) Provisional ballots in the number considered necessary by the county election board.

(4) Twenty (20) ink pens suitable for printing the names of write-in candidates on the ballot or ballot envelope.

(5) Copies of the voter's bill of rights for posting as required by 42 U.S.C. 15482.

(6) Copies of the instructions for a provisional voter required by 42 U.S.C. 15482. The county election board shall provide at least the number of copies of the instructions as the number of provisional ballots provided under subdivision (3).

SECTION 52. IC 3-11-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Before each election each county executive shall secure for each precinct of the county an accessible facility in which to hold the election.

(b) If an accessible facility is not available within the precinct, then the polls may be located in a **public building in an adjoining another** precinct **in the county** if the ~~public building is:~~ **polls are:**

(1) either:

(A) not more than ~~one (1) mile~~ **five (5) miles** from the closest boundary of the precinct for which it is the polls; or

(B) located in the same township as the precinct that does not have an accessible facility available; and

(2) **located in** an accessible facility.

(c) If the county election board, by a unanimous vote of its entire membership, determines that an accessible facility is not available under subsection (b), the board may locate the polls in the most convenient available accessible facility in the county.

(d) If the county election board, by unanimous vote of its entire membership, determines that:

(1) an accessible facility is not available under subsection (b) or (c); and

(2) the most convenient accessible facility is located in an adjoining county;

the board may locate the polls in the facility described in subdivision (2) with the unanimous consent of the entire membership of the county election board of the county in which the facility is located.

SECTION 53. IC 3-11-8-4.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.3. **(a)** If the county election board adopts an order by the unanimous vote of the entire membership of the board, the county executive may locate the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct.

(b) An order adopted under this section expires December 31 after the date the order was adopted.

(c) If a precinct election board administers more than one (1) precinct under this section, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

SECTION 54. IC 3-11-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

(1) Members of a precinct election board.

- (2) Poll clerks and assistant poll clerks.
- (3) Election sheriffs.
- (4) Deputy election commissioners.
- (5) Pollbook holders **and challengers.**
- (6) Watchers.
- (7) Voters for the purposes of voting.
- (8) Minor children accompanying voters as provided under IC 3-11-11-8. ~~and IC 3-11-12-29.~~
- (9) An assistant to a precinct election officer appointed under IC 3-6-6-39.
- (10) An individual authorized to assist a voter in accordance with IC 3-11-9.
- (11) A member of a county election board, acting on behalf of the board.
- (12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).
- (13) Either of the following who have been issued credentials signed by the members of the county election board:
 - (A) The county chairman of a political party.
 - (B) The county vice chairman of a political party.
- (14) The secretary of state, as chief election officer of the state, unless the individual serving as secretary of state is a candidate for nomination or election to an office at the election.**

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 55. IC 3-11-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. ~~Challengers appointed under IC 3-6-7 are entitled to stand at the sides of the chute next to the entrance to the polls, as provided in IC 3-6-7-2. No other A~~ person may **not** remain within a distance equal to the length of the chute (as defined in IC 3-5-2-10) of the entrance to the polls except for the purpose of offering to vote.

SECTION 56. IC 3-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This chapter:

- (1) is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot; and
- (2) applies to each precinct where voting is by paper ballot.

(b) After the polls have closed, each precinct election board shall count the paper ballot votes for each candidate for each office and on each public question. ~~The board shall begin by counting the state paper ballots and shall complete the count of the state paper ballots before counting the local paper ballots.~~ The ballots shall be counted by laying

each ballot upon a table in the order in which it is taken from the ballot box.

(c) Notwithstanding subsection (b), the precinct election board may count absentee ballots before the polls have closed. If the precinct election board counts absentee ballots under this subsection, a member of the precinct election board may not, before the polls have closed, provide any person other than a member of the precinct election board with information concerning the number of votes:

(1) a candidate received for an office; or

(2) cast to approve or reject a public question;
on absentee ballots counted under this subsection.

(d) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

SECTION 57. IC 3-12-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The return printed by the automatic tabulating machines, along with the return of votes by absentee and provisional voters, constitutes the official return of each precinct. Upon completion of the count, the return is open to the public.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The circuit court clerk shall, upon request, furnish to the media in the area the results of the tabulation.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. Upon receiving the certificate for the media prepared under section 2(c) of this chapter, the circuit court clerk shall deliver the certificate to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county.

(d) If a precinct election board administers more than one (1) precinct, the precinct election board or circuit court clerk shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

SECTION 58. IC 3-12-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) When paper vote total printouts have been obtained, the precinct election board shall prepare certificates stating the number of votes that each candidate received for each office and the votes on each public question by attaching the paper vote total printouts to certificate forms supplied by the county election board.

(b) Each member of the board shall be given a copy of the certificate.

(c) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct

1 **separate from ballots cast in any other precinct, so that the votes**
 2 **cast for each candidate and on each public question in each of the**
 3 **precincts administered by the board may be determined.**

4 SECTION 59. IC 3-12-9-1, AS AMENDED BY HEA 1288-2005,
 5 SECTION 54, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever a tie vote at an
 7 election for:

8 (1) a federal office;

9 (2) a state office (other than governor and lieutenant governor); **or**

10 (3) a legislative office;

11 ~~(4) a circuit office; or~~

12 ~~(5) a school board office not covered under IC 20-23-4 or~~
 13 ~~IC 20-23-7;~~

14 occurs, a special election shall be held.

15 (b) Whenever a tie vote occurs at a primary election for the
 16 nomination of a candidate to be voted for at the general or municipal
 17 election, IC 3-13-1-17 applies.

18 SECTION 60. IC 3-12-9-3 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Whenever a circuit
 20 court clerk receives certification that a tie vote at an election for a local
 21 office ~~(other than a circuit office)~~ **or a school board office** occurred,
 22 the clerk shall immediately send a written notice of the tie vote to:

23 (1) the fiscal body of the affected political subdivision; **or**

24 **(2) if the tie vote occurred in an election for a circuit office in**
 25 **a circuit that includes more than one county, to the fiscal body**
 26 **of each county of the circuit.**

27 SECTION 61. IC 3-12-9-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The fiscal body
 29 of a political subdivision that receives notice under section 3 of this
 30 chapter shall resolve the tie vote by electing a person to fill the office
 31 not later than December 31 following the election ~~(or not later than~~
 32 **June 30 following the election of a school board member in May)**
 33 at which the tie vote occurred. The fiscal body shall select one (1) of
 34 the candidates who was involved in the tie vote to fill the office.

35 **(b) If a tie vote has occurred in an election for a circuit office in**
 36 **a circuit that contains more than one (1) county, the fiscal bodies**
 37 **of the counties shall meet in joint session at the county seat of the**
 38 **county that contains the greatest percentage of population of the**
 39 **circuit to select one (1) of the candidates who was involved in the tie**
 40 **vote in order to fill the office in accordance with this section.**

41 **(c) If a tie vote has occurred for the election of more than one (1)**
 42 **at-large seat on a legislative or fiscal body, the fiscal body shall select**
 43 **the number of individuals necessary to fill each of the at-large seats for**
 44 **which the tie vote occurred. However, a member of a fiscal body who**
 45 **runs for reelection and is involved in a tie vote may not cast a vote**
 46 **under this section.**

47 ~~(b)~~ **(d) The executive of the political subdivision (other than a town**
 48 **or a school corporation) may cast the deciding vote to break a tie vote**
 49 **in a fiscal body acting under this section. The clerk-treasurer of the**
 50 **town may cast the deciding vote to break a tie vote in a town fiscal**
 51 **body acting under this section. A tie vote in the fiscal body of a school**

corporation under this section shall be broken under IC 20-4-1-26.5 or IC 20-4-8-8.

SECTION 62. IC 3-13-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. A candidate seeking to fill a candidate vacancy under this chapter must comply with the requirements imposed under IC 3-8-1 for the office.**

SECTION 63. IC 3-13-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) To be eligible to participate in a caucus called under section 7 of this chapter, an elected precinct committeeman must be entitled to vote for the office for which a candidate is to be selected. An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the ballot vacancy occurred.

(b) An appointed precinct committeeman is eligible to participate in a caucus called under section 7 of this chapter if the precinct committeeman was a committeeman thirty (30) days before the vacancy occurred.

(c) For purposes of a candidate vacancy resulting from the failure of a candidate to be nominated at a primary at which precinct committeemen were elected, an appointed precinct committeeman is eligible to serve if the committeeman has been reappointed following the primary in accordance with the rules of the committeeman's political party.

SECTION 64. IC 3-13-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) This section applies to a political party subject to IC 3-8-4-10, **IC 3-10-2-15, or IC 3-10-6-12.**

(b) A candidate vacancy that exists following the convention of the party shall be filled by the state committee of the political party not later than ~~noon June 30 before election day~~ **the date and time specified by section 7(a)(1) of this chapter for a major political party to fill a candidate vacancy.** The chairman of the state committee shall file a notice of intent to fill the candidate vacancy with the official who is required to receive a certificate of candidate selection under section 15 of this chapter. The notice must be filed not later than ten (10) days before the chairman fills the candidate vacancy. The chairman of the state committee shall act in accordance with section 15 of this chapter to certify the candidate selected to fill the vacancy.

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the general election ballot resulting from the failure of the convention to nominate a candidate for an office. The certificate required by subsection (b) shall be filed not later than ~~noon July 3 before election day~~ **the date and time specified by section 15(c) of this chapter for a major political party to file a certificate of candidate selection.**

(d) This subsection applies to all candidate vacancies not described by subsection (c). **If a candidate vacancy occurs as a result of:**

- (1) the death of a candidate;**
- (2) the withdrawal of a candidate;**
- (3) the disqualification of a candidate under IC 3-8-1-5; or**

(4) a court order issued under IC 3-8-7-29(d);
 the political party may fill the vacancy within the same period of
 time that a major political party is permitted to fill a candidate
 vacancy under section 7(b) of this chapter.

(e) The certificate required by subsection (b) shall be filed ~~not more~~
~~than three (3) days (excluding Saturdays and Sundays)~~ within the
 period of time required under section 15(d) of this chapter for a
 major political party to file the certificate after selection of the
 candidates.

SECTION 65. IC 3-13-2-1.5 IS ADDED TO THE INDIANA CODE
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2005]: **Sec. 1.5. A candidate seeking to fill a candidate
 vacancy under this chapter must comply with the requirements
 imposed under IC 3-8-1 for the office.**

SECTION 66. IC 3-14-5-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This section
 applies during an election whenever a voter makes an affidavit before
 the inspector in a precinct that a person who has voted is an illegal
 voter in the precinct. **This section does not apply to an affidavit
 executed by an individual who:**

- (1) is subject to the requirements set forth in IC 3-7-33-4.5;**
- (2) is challenged solely as a result of the individual's inability
 or refusal to comply with IC 3-7-33-4.5; and**
- (3) subsequently complies with IC 3-7-33-4.5 before the close of
 the polls on election day.**

(b) Immediately after the close of the polls the inspector shall deliver
 the affidavit to the **county election board for delivery by the**
 prosecuting attorney for the county ~~who~~ **to the grand jury under**
section 2 of this chapter. The prosecuting attorney for the county
 shall:

- (1) proceed as if the affidavit had been made before the prosecuting
 attorney; and
- (2) ~~notify~~ **ensure that the grand jury notifies** the NVRA official
under section 2 of this chapter if a violation of NVRA appears to
 have occurred.

SECTION 67. IC 3-14-5-2 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Each precinct
 election board shall, at the close of the polls, place all affidavits
 prescribed by this title for use on election day to determine the
 eligibility of a precinct election officer (or a person who wishes to cast
 a ballot) in a strong paper bag or envelope and securely seal it. Each
 member shall endorse that member's name on the back of the bag or
 envelope.

(b) The inspector and judge of the opposite political party shall
 deliver the **sealed** bag or envelope to the county election board. ~~whose~~
~~duty it is to~~ **The county election board shall do the following:**

- (1) Remove the affidavits from the bag or envelope.**
- (2) Mail a copy of each affidavit to the secretary of state.**
- (3) Replace the affidavits within the bag or envelope.**
- (4) Reseal the bag or envelope with the endorsement of the
 name of each county election board member on the back of the**

bag or envelope.

(5) Carefully preserve ~~it~~ **the resealed bag or envelope** and deliver it, with the **county election board's** seal unbroken, to the foreman of the grand jury when next in session.

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

(d) The grand jury shall file a report of the result of its inquiry with:

(1) the court; and

(2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 68. IC 9-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 69. IC 12-7-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 70. IC 16-18-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 71. IC 20-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The six (6) members who are elected for a position on the governing body described under section 3(b)(1) of this chapter are determined as follows:

(1) Each candidate must file a nomination petition with the ~~clerk of the circuit court at least~~ **board of elections and registration not earlier than one hundred four (104) days and not later than noon** seventy-four (74) days before the election at which the members are to be elected and that includes the following information:

(A) The name of the candidate.

(B) The district in which the candidate resides.

(C) The signatures of at least one hundred (100) registered voters residing within the school corporation.

(D) The fact that the candidate is running for a district position.

(E) A certification that the candidate meets the qualifications for candidacy imposed by this chapter.

(2) Only eligible voters residing in the district may vote for a candidate.

(3) The candidate within each particular district who receives the greatest number of votes within the district is elected.

(b) The member who is elected for a position on the governing body described under section 3(b)(2) of this chapter is determined as follows:

(1) Each candidate must file a nomination petition with the clerk of the circuit court at least seventy-four (74) days before the election at which the at-large member is to be elected. The petition must include the following information:

(A) The name of the candidate.

(B) The signatures of at least one hundred (100) registered voters residing within the school corporation.

(C) The fact that the candidate is running for the at-large position on the governing body.

(D) A certification that the candidate meets the qualifications for candidacy imposed by this chapter.

(2) Only eligible voters residing in the school corporation may vote for a candidate.

(3) The candidate who:

(A) runs for the at-large position on the governing body; and

(B) receives the greatest number of votes within the school corporation;

is elected to the at-large position.

SECTION 72. IC 20-3-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The members shall be elected as follows:

(1) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~2000~~ **2008** and every four (4) years thereafter.

(2) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~2002~~ **2006** and every four (4) years thereafter.

(3) The at-large member elected under section 3(b)(2) of this chapter shall be elected at the primary election to be held in ~~2004~~ **2008** and every four (4) years thereafter.

SECTION 73. IC 20-3-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. To be eligible to be a candidate for the governing body under this chapter, the following apply:

(1) Each prospective candidate must file a nomination petition with the ~~clerk of the circuit court at least~~ **board of elections and registration not earlier than one hundred four (104) days and not later than noon** seventy-four (74) days before the primary election at which the members are to be elected that includes the following information:

(A) The name of the prospective candidate.

(B) Whether the prospective candidate is a district candidate or an at-large candidate.

(C) A certification that the candidate meets the qualifications for candidacy imposed under this chapter.

(D) The signatures of at least one hundred (100) registered voters residing within the school corporation.

(2) Each prospective candidate for a district position must:

(A) reside within the district; and

- 1 (B) have resided within the district for at least the three (3) years
 2 immediately preceding the election.
- 3 (3) Each prospective candidate for an at-large position must:
 4 (A) reside within the boundaries of the school corporation; and
 5 (B) have resided within the boundaries of the school corporation
 6 for at least the three (3) years immediately preceding the
 7 election.
- 8 (4) Each prospective candidate (regardless of whether the candidate
 9 is a district candidate or an at-large candidate) must:
 10 (A) be a registered voter and must have been a registered voter
 11 for at least the three (3) years immediately preceding the
 12 election; and
 13 (B) be a high school graduate or have received a:
 14 (i) high school equivalency certificate; or
 15 (ii) state of Indiana general educational development (GED)
 16 diploma under IC 20-10.1-12.1.
- 17 (5) A prospective candidate may not:
 18 (A) hold any other elective or appointive office; or
 19 (B) have a pecuniary interest in any contract with the school
 20 corporation or its governing body;
 21 as prohibited by law.
- 22 SECTION 74. IC 20-3-22-9 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The members shall
 24 be elected as follows:
 25 (1) Three (3) of the members shall be elected at the primary
 26 election to be held in ~~2000~~ **2008** and every four (4) years thereafter.
 27 (2) Two (2) of the members shall be elected at the primary election
 28 to be held in ~~2002~~ **2006** and every four (4) years thereafter.
- 29 SECTION 75. IC 20-4-1-26.5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26.5. (a) This section
 31 applies to each school corporation, whenever created.
 32 (b) If the board of school trustees is to be elected at the primary
 33 election, each registered voter may vote in the board of school trustee
 34 election without otherwise voting in the primary election.
 35 (c) If a tie vote occurs among any of the candidates, the ~~judge of the~~
 36 ~~circuit court; or in case of a united school corporation, the judge of the~~
 37 ~~circuit court of the county having the most pupils enrolled in the united~~
 38 ~~school corporation, shall select one (1) of the candidates who shall be~~
 39 ~~declared and certified elected: tie vote shall be resolved under~~
 40 **IC 3-12-9-4.**
 41 (d) If after the first board of school trustees takes office, there is a
 42 vacancy on the board of school trustees for any reason, including the
 43 failure of the sufficient number of petitions for candidates being filed,
 44 and whether the vacating member was elected or appointed, the
 45 remaining members of the board of school trustees, whether or not a
 46 majority of the board, shall by a majority vote fill the vacancy by
 47 appointing a person from within the boundaries of the community
 48 school corporation, with the residence and other qualifications provided
 49 for a regularly elected or appointed board member filling the office, to
 50 serve for the term or balance of terms respectively. If a tie vote occurs
 51 among the ~~remaining~~ members of the board **under this subsection or**

1 **IC 3-12-9-4**, or the board fails to act within thirty (30) days after any
 2 vacancy occurs, the judge of the circuit court in the county where the
 3 majority of registered voters of the school corporation reside shall make
 4 the appointment.

5 (e) A vacancy in the board of trustees occurs if a member ceases to
 6 be a resident of any community school corporation. A vacancy does not
 7 occur when the member moves from a district of the school corporation
 8 from which the member was elected or appointed as long as the
 9 member continues to be a resident of the school corporation.

10 (f) At the first primary or general election in which members of the
 11 board of school trustees are elected, a simple majority of the candidates
 12 elected as members of the board of school trustees who receive the
 13 highest number of votes shall be elected for four (4) year terms. The
 14 balance of the candidates elected as members of the board of school
 15 trustees receiving the next highest number of votes shall be elected for
 16 two (2) year terms. Thereafter, all school board members shall be
 17 elected for four (4) year terms.

18 (g) Board members elected in November take office and assume their
 19 duties on January 1 or July 1 after their election, as determined by the
 20 board of school trustees before the election. Board members elected in
 21 May take office and assume their duties on July 1 after their election.

22 SECTION 76. IC 20-4-3-1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In a community
 24 school corporation set up under IC 20-4-1 that has a population of more
 25 than seventy-five thousand (75,000) but less than ninety thousand
 26 (90,000), and that is the successor in interest to a school city having the
 27 same population, the governing body shall consist of a board of trustees
 28 of five (5) members elected in the manner provided in this chapter.

29 (b) At the ~~2000~~ **2008** primary election and at each primary election
 30 every four (4) years thereafter, there shall be elected in each school
 31 corporation covered by this chapter two (2) school trustees each of
 32 whom shall serve for four (4) years. The two (2) candidates for the
 33 office of school trustee receiving the highest number of votes at the
 34 election take office on July 1 next following the election.

35 (c) At the ~~2002~~ **2006** primary election and at each primary election
 36 every four (4) years thereafter, there shall be elected in each school city
 37 covered by this chapter three (3) school trustees each of whom shall
 38 serve for four (4) years. The three (3) candidates for the office of school
 39 trustee receiving the highest number of votes at the election take office
 40 on July 1 next following the election.

41 (d) The school trustees shall be elected at the times provided and shall
 42 succeed the retiring members in the order and manner as set forth in this
 43 section.

44 SECTION 77. IC 20-4-8-8 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) At the time
 46 provided by IC 3-8-2-4 for filing a declaration of candidacy for the
 47 primary election next following the creation of the county school
 48 corporation as provided in this chapter, nominations for members of the
 49 board of education of said county school corporation shall be made by
 50 a petition signed by the nominee and ten (10) voters of the county
 51 residing in the same board member district as the nominee, which shall

1 be filed with the clerk of the circuit court in the respective county. Such
 2 nominations shall be listed by board member districts on the primary
 3 election ballot as prescribed by IC 3-10-1-19, but without party
 4 designation.

5 (b) Voting and tabulation of votes shall be conducted in the same
 6 manner as in primary elections under IC 3-10-1. The candidates elected
 7 from each board member district and at large shall be the persons
 8 having the greatest number of votes. If in the first election more than
 9 two (2) candidates in any one (1) board member district shall be among
 10 those who received the greatest number of votes or if in any subsequent
 11 election more than one (1) person shall be among those who received
 12 the greatest number of votes, then the candidate or candidates
 13 respectively receiving the next greatest number of votes in other board
 14 member districts respectively shall be declared elected. ~~In the event of~~
 15 **If a tie vote occurs among any of the candidates, the tie vote shall**
 16 **be resolved under IC 3-12-9-4. If a tie vote for any of said candidates,**
 17 **occurs when the fiscal body acts under IC 3-12-9-4,** the judge of the
 18 circuit court shall select one (1) of said candidates who shall be
 19 declared and certified elected.

20 (c) If at any time there shall occur a vacancy or vacancies on the
 21 board for any reason including the failure of the sufficient number of
 22 petitions for candidates being filed, it shall be the duty of the judge of
 23 the circuit court to fill said vacancies by appointing a person or persons
 24 from the respective board member district or districts to serve for the
 25 term or balance of terms respectively.

26 (d) At the first primary election wherein members of the county board
 27 of education shall be elected, the three (3) candidates who receive the
 28 highest number of votes in each of the respective board member
 29 districts shall be elected for four (4) year terms and the two (2)
 30 candidates from different districts receiving the next highest number of
 31 votes respectively shall be elected for two (2) year terms. All
 32 candidates for membership on the county board of education shall be
 33 voted upon by the voters in the county school corporation district only
 34 and shall be elected for four (4) year terms after the first election and
 35 shall take office and assume their duties one (1) week after their
 36 election.

37 SECTION 78. IC 20-23-4-30, AS ADDED BY HEA 1288-2005, IS
 38 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:
 39 Sec. 30. (a) This section applies to each school corporation.

40 (b) If the governing body is to be elected at the primary election, each
 41 registered voter may vote in the governing body election without
 42 otherwise voting in the primary election.

43 (c) If a tie vote occurs among any of the candidates,
 44 ~~(1) the judge of the circuit court; or~~
 45 ~~(2) in case of a united school corporation; the judge of the circuit~~
 46 ~~court of the county having the most students enrolled in the united~~
 47 ~~school corporation;~~

48 shall select one ~~(1)~~ of the candidates; who shall be declared and
 49 certified elected: **the tie vote shall be resolved under IC 3-12-9-4.**

50 (d) If after the first governing body takes office, there is a vacancy on
 51 the governing body for any reason, including the failure of the

sufficient number of petitions for candidates being filed, whether the vacating member was elected or appointed, the remaining members of the governing body, whether or not a majority of the governing body, shall by a majority vote fill the vacancy by appointing a person from within the boundaries of the community school corporation to serve for the term or balance of the term. An individual appointed under this subsection must possess the qualifications provided for a regularly elected or appointed governing body member filling the office. If:

(1) a tie vote occurs among the ~~remaining~~ members of the governing body **under this subsection or IC 3-12-9-4**; or

(2) the governing body fails to act within thirty (30) days after any vacancy occurs;

the judge of the circuit court in the county where the majority of registered voters of the school corporation reside shall make the appointment.

(e) A vacancy in the governing body occurs if a member ceases to be a resident of any community school corporation. A vacancy does not occur when the member moves from a district of the school corporation from which the member was elected or appointed if the member continues to be a resident of the school corporation.

(f) At the first primary or general election in which members of the governing body are elected:

(1) a simple majority of the candidates elected as members of the governing body who receive the highest number of votes shall be elected for four (4) year terms; and

(2) the balance of the candidates elected as members of the governing body receiving the next highest number of votes shall be elected for two (2) year terms.

Thereafter, all school board members shall be elected for four (4) year terms.

(g) Governing body members elected:

(1) in November take office and assume their duties on January 1 or July 1 after their election, as determined by the board of school trustees before the election; and

(2) in May take office and assume their duties on July 1 after their election.

SECTION 79. IC 20-23-12-5, AS ADDED BY HEA 1288-2005, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:
Sec. 5. (a) The six (6) members who are elected for a position on the governing body described under section 3(b) of this chapter are determined as follows:

(1) Each prospective candidate must file a nomination petition with the ~~clerk of the circuit court at least~~ **board of elections and registration not earlier than one hundred four (104) days and not later than noon** seventy-four (74) days before the election at which the members are to be elected that includes the following information:

(A) The name of the prospective candidate.

(B) The district in which the prospective candidate resides.

(C) The signatures of at least one hundred (100) registered voters residing in the school corporation.

1 (D) The fact that the prospective candidate is running for a
2 district position.

3 (E) A certification that the prospective candidate meets the
4 qualifications for candidacy imposed by this chapter.

5 SECTION 80. IC 20-23-13-1, AS ADDED BY HEA 1288-2005, IS
6 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

7 Sec. 1. (a) In a community school corporation established under
8 IC 20-23-4 that:

9 (1) has a population of more than seventy-five thousand (75,000)
10 but less than ninety thousand (90,000); and

11 (2) is the successor in interest to a school city having the same
12 population;

13 the governing body consists of a board of trustees of five (5) members
14 elected in the manner provided in this chapter.

15 (b) At the ~~2004~~ **2008** primary election and at each primary election
16 every four (4) years thereafter, there shall be elected in each school
17 corporation covered by this chapter two (2) governing body members,
18 each of whom shall serve for four (4) years. The two (2) candidates for
19 the office of school trustee receiving the highest number of votes at the
20 election take office on July 1 next following the election.

21 (c) At the ~~2002~~ **2006** primary election and at each primary election
22 every four (4) years thereafter, there shall be elected in each school city
23 covered by this chapter three (3) governing body members, each of
24 whom shall serve for four (4) years. The three (3) candidates for the
25 office of school trustee receiving the highest number of votes at the
26 election take office on July 1 next following the election.

27 (d) The governing body members shall be elected at the times
28 provided and shall succeed the retiring members in the order and
29 manner as set forth in this section.

30 SECTION 81. IC 20-23-14-5, AS ADDED BY HEA 1288-2005, IS
31 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

32 Sec. 5. To be eligible to be a candidate for the governing body under
33 this chapter, the following apply:

34 (1) Each prospective candidate must file a nomination petition with
35 the ~~clerk of the circuit court at least~~ **board of elections and**
36 **registration not earlier than one hundred four (104) days and**
37 **not later than noon** seventy-four (74) days before the primary
38 election at which the members are to be elected that includes the
39 following information:

40 (A) The name of the prospective candidate.

41 (B) Whether the prospective candidate is a district candidate or
42 an at-large candidate.

43 (C) A certification that the prospective candidate meets the
44 qualifications for candidacy imposed under this chapter.

45 (D) The signatures of at least one hundred (100) registered voters
46 residing in the school corporation.

47 (2) Each prospective candidate for a district position must:

48 (A) reside in the district; and

49 (B) have resided in the district for at least the three (3) years
50 immediately preceding the election.

51 (3) Each prospective candidate for an at-large position must:

- 1 (A) reside in the school corporation; and
- 2 (B) have resided in the school corporation for at least the three
- 3 (3) years immediately preceding the election.
- 4 (4) Each prospective candidate (regardless of whether the candidate
- 5 is a district candidate or an at-large candidate) must:
- 6 (A) be a registered voter;
- 7 (B) have been a registered voter for at least the three (3) years
- 8 immediately preceding the election; and
- 9 (C) be a high school graduate or have received a:
- 10 (i) high school equivalency certificate; or
- 11 (ii) state general educational development (GED) diploma
- 12 under IC 20-20-6.
- 13 (5) A prospective candidate may not:
- 14 (A) hold any other elective or appointive office; or
- 15 (B) have a pecuniary interest in any contract with the school
- 16 corporation or its governing body;
- 17 as prohibited by law.

18 SECTION 82. IC 36-2-2-4 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This subsection
 20 does not apply to a county having a population of:

- 21 (1) more than four hundred thousand (400,000) but less than seven
- 22 hundred thousand (700,000); or
- 23 (2) more than two hundred thousand (200,000) but less than three
- 24 hundred thousand (300,000).

25 The executive shall divide the county into three (3) districts that are
 26 composed of contiguous territory and are reasonably compact. The
 27 district boundaries drawn by the executive must not cross precinct
 28 boundary lines and must divide townships only when a division is
 29 clearly necessary to accomplish redistricting under this section. If
 30 necessary, the county auditor shall call a special meeting of the
 31 executive to establish or revise districts.

32 (b) This subsection applies to a county having a population of more
 33 than four hundred thousand (400,000) but less than seven hundred
 34 thousand (700,000). A county redistricting commission shall divide the
 35 county into three (3) single-member districts that comply with
 36 subsection (d). The commission is composed of:

- 37 (1) the members of the Indiana election commission;
- 38 (2) two (2) members of the senate selected by the president pro
- 39 tempore, one (1) from each political party; and
- 40 (3) two (2) members of the house of representatives selected by the
- 41 speaker, one (1) from each political party.

42 The legislative members of the commission have no vote and may act
 43 only in an advisory capacity. A majority vote of the voting members is
 44 required for the commission to take action. The commission may meet
 45 as frequently as necessary to perform its duty under this subsection.
 46 The commission's members serve without additional compensation
 47 above that provided for them as members of the Indiana election
 48 commission, the senate, or the house of representatives.

49 (c) This subsection applies to a county having a population of more
 50 than two hundred thousand (200,000) but less than three hundred
 51 thousand (300,000). The executive shall divide the county into three (3)

single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is possible, equal population; and

(3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) **in 2001 and every ten (10) years after that, during the first year after a year in which a federal decennial census is conducted;** and

(2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 83. IC 36-2-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and
 (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) ~~in 2001 and every ten (10) years after that;~~ **during the first year after a year in which a federal decennial census is conducted;** and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 84. IC 36-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The city-county legislative body shall, by ordinance, divide the whole county into twenty-five (25) districts that:

(1) are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is possible, equal population; and

(3) do not cross precinct boundary lines.

This division shall be made ~~in 1992 and every ten (10) years after that;~~ **during the second year after a year in which a federal decennial census is conducted** and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) The legislative body is composed of twenty-five (25) members elected from the districts established under subsection (a) and four (4) members elected from an at-large district containing the whole county.

(c) Each voter of the county may vote for four (4) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The four (4) at-large candidates receiving the most votes from the whole county and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(d) If the legislative body fails to make the division before the date prescribed by subsection (a) or the division is alleged to violate subsection (a) or other law, a taxpayer or registered voter of the county may petition the superior court of the county to hear and determine the matter. There may not be a change of venue from the court or from the county. The court sitting en banc may appoint a master to assist in its determination and may draw proper district boundaries if necessary. An appeal from the court's judgment must be taken within thirty (30) days, directly to the supreme court, in the same manner as appeals from other actions.

(e) An election of the legislative body held under the ordinance or court judgment determining districts that is in effect on the date of the election is valid, regardless of whether the ordinance or judgment is later determined to be invalid.

SECTION 85. IC 36-4-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section applies only to second class cities.

(b) The legislative body shall adopt an ordinance to divide the city

- 1 into six (6) districts that:
- 2 (1) are composed of contiguous territory, except for territory that
- 3 is not contiguous to any other part of the city;
- 4 (2) are reasonably compact;
- 5 (3) do not cross precinct boundary lines, except as provided in
- 6 subsection (c) or (d); and
- 7 (4) contain, as nearly as is possible, equal population.
- 8 (c) The boundary of a city legislative body district may cross a
- 9 precinct boundary line if:
- 10 (1) more than one (1) member of the legislative body elected from
- 11 the districts established under subsection (b) resides in one (1)
- 12 precinct established under IC 3-11-1.5 after the most recent
- 13 municipal election; and
- 14 (2) following the establishment of a legislative body district whose
- 15 boundary crosses a precinct boundary line, not more than one (1)
- 16 member of the legislative body elected from districts resides within
- 17 the same city legislative body district.
- 18 (d) The boundary of a city legislative body district may cross a
- 19 precinct line if the districts would not otherwise contain, as nearly as is
- 20 possible, equal population.
- 21 (e) A city legislative body district with a boundary described by
- 22 subsection (c) or (d) may not cross a census block boundary line:
- 23 ~~except:~~
- 24 (1) **except** when following a precinct boundary line; or
- 25 (2) **unless** the city legislative body certifies in the ordinance that
- 26 the census block has no population, and is not likely to ever have
- 27 population.
- 28 (f) The legislative body may not adopt an ordinance dividing the city
- 29 into districts with boundaries described by subsection (c) or (d) unless
- 30 the clerk of the city mails a written notice to the circuit court clerk. The
- 31 notice must:
- 32 (1) state that the legislative body is considering the adoption of an
- 33 ordinance described by this subsection; and
- 34 (2) be mailed not later than ten (10) days before the legislative
- 35 body adopts the ordinance.
- 36 (g) The division under subsection (b) shall be made: ~~in 2002; every~~
- 37 ~~ten (10) years after that;~~
- 38 **(1) during the second year after a year in which a federal**
- 39 **decennial census is conducted; and**
- 40 **(2) when required to assign annexed territory to a district.**
- 41 This division may be made at any other time, subject to IC 3-11-1.5-32.
- 42 (h) The legislative body is composed of six (6) members elected from
- 43 the districts established under subsection (b) and three (3) at-large
- 44 members.
- 45 (i) Each voter of the city may vote for three (3) candidates for at-large
- 46 membership and one (1) candidate from the district in which the voter
- 47 resides. The three (3) at-large candidates receiving the most votes from
- 48 the whole city and the district candidates receiving the most votes from
- 49 their respective districts are elected to the legislative body.
- 50 (j) If any territory in the city is not included in one (1) of the districts
- 51 established under this section, the territory is included in the district

1 that:

- 2 (1) is contiguous to that territory; and
- 3 (2) contains the least population of all districts contiguous to that
- 4 territory.

5 (k) If any territory in the city is included in more than one (1) of the
6 districts established under this section, the territory is included in the
7 district that:

- 8 (1) is one (1) of the districts in which the territory is described in
- 9 the ordinance adopted under this section;
- 10 (2) is contiguous to that territory; and
- 11 (3) contains the least population of all districts contiguous to that
- 12 territory.

13 (l) A copy of the ordinance establishing districts under this section
14 must be filed with the circuit court clerk of the county that contains the
15 greatest population of the city not later than thirty (30) days after the
16 ordinance is adopted.

17 SECTION 86. IC 36-4-6-4 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This section
19 applies to third class cities, except as provided by section 5 of this
20 chapter.

21 (b) This subsection does not apply to a city with an ordinance
22 described by subsection (j). The legislative body shall adopt an
23 ordinance to divide the city into five (5) districts that:

- 24 (1) are composed of contiguous territory, except for territory that
- 25 is not contiguous to any other part of the city;
- 26 (2) are reasonably compact;
- 27 (3) do not cross precinct boundary lines except as provided in
- 28 subsection (c) or (d); and
- 29 (4) contain, as nearly as is possible, equal population.

30 (c) The boundary of a city legislative body district may cross a
31 precinct boundary line if:

- 32 (1) more than one (1) member of the legislative body elected from
- 33 the districts established under subsection (b) or (j) resides in one
- 34 (1) precinct established under IC 3-11-1.5 after the most recent
- 35 municipal election; and
- 36 (2) following the establishment of a legislative body district whose
- 37 boundary crosses a precinct boundary line, not more than one (1)
- 38 member of the legislative body elected from the districts resides
- 39 within the same city legislative body district.

40 (d) The boundary of a city legislative body district may cross a
41 precinct line if the districts would not otherwise contain, as nearly as is
42 possible, equal population.

43 (e) A city legislative body district with a boundary described by
44 subsection (c) or (d) may not cross a census block boundary line:

45 ~~except:~~

- 46 (1) **except** when following a precinct boundary line; or
- 47 (2) **unless** the city legislative body certifies in the ordinance that
- 48 the census block has no population, and is not likely to ever have
- 49 population.

50 (f) The legislative body may not adopt an ordinance dividing the city
51 into districts with boundaries described by subsection (c) or (d) unless

the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made: ~~in 2002, every ten (10) years after that;~~

(1) during the second year after a year in which a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

(1) are composed of contiguous territory;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance is adopted.

(n) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(o) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

SECTION 87. IC 36-4-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body of such a city may, by ordinance adopted before September 1, 1982, decide to be governed by this section instead of section 4 of this chapter. If this ordinance is repealed after August 31, 1982, except as a part of a codification of ordinances that reenacts the ordinance under IC 36-1-5-6, then section 4 of this chapter again applies to the city. The clerk of the legislative body shall send a certified copy of any ordinance adopted under this subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line: ~~except:~~

- (1) **except** when following a precinct boundary line; or
- (2) **unless** the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The

1 notice must:

2 (1) state that the legislative body is considering the adoption of an
3 ordinance described by this subsection; and

4 (2) be mailed not later than ten (10) days before the legislative
5 body adopts the ordinance.

6 (g) The division under subsection (b) or (j) shall be made: ~~in 2002,~~
7 ~~every ten (10) years after that,~~

8 **(1) during the second year after a year in which a federal**
9 **decennial census is conducted; and**

10 **(2) when required to assign annexed territory to a district.**

11 This division may be made at any other time, subject to IC 3-11-1.5-32.

12 (h) This subsection does not apply to a city with an ordinance
13 described by subsection (j). The legislative body is composed of four
14 (4) members elected from the districts established under subsection (b)
15 and one (1) at-large member.

16 (i) This subsection does not apply to a city with an ordinance
17 described by subsection (j). Each voter may vote for one (1) candidate
18 for at-large membership and one (1) candidate from the district in
19 which the voter resides. The at-large candidate receiving the most votes
20 from the whole city and the district candidates receiving the most votes
21 from their respective districts are elected to the legislative body.

22 (j) A city may adopt an ordinance under this subsection to divide the
23 city into three (3) districts that:

24 (1) are composed of contiguous territory, except for territory that
25 is not contiguous to any other part of the city;

26 (2) are reasonably compact;

27 (3) do not cross precinct boundary lines, except as provided in
28 subsection (c) or (d); and

29 (4) contain, as nearly as is possible, equal population.

30 (k) This subsection applies to a city with an ordinance described by
31 subsection (j). The legislative body is composed of three (3) members
32 elected from the districts established under subsection (j) and two (2)
33 at-large members.

34 (l) This subsection applies to a city with an ordinance described by
35 subsection (j). Each voter of the city may vote for two (2) candidates
36 for at-large membership and one (1) candidate from the district in
37 which the voter resides. The two (2) at-large candidates receiving the
38 most votes from the whole city and the district candidates receiving the
39 most votes from their respective districts are elected to the legislative
40 body.

41 (m) This subsection applies to a city having a population of less than
42 seven thousand (7,000). A legislative body of such a city that has, by
43 resolution adopted before May 7, 1991, decided to continue an election
44 process that permits each voter of the city to vote for one (1) candidate
45 at large and one (1) candidate from each of its four (4) council districts
46 may hold elections using that voting arrangement. The at-large
47 candidate and the candidate from each district receiving the most votes
48 from the whole city are elected to the legislative body. The districts
49 established in cities adopting such a resolution may cross precinct
50 boundary lines.

51 (n) A copy of the ordinance establishing districts under this section

1 must be filed with the circuit court clerk of the county that contains the
 2 greatest population of the city not later than thirty (30) days after the
 3 ordinance is adopted.

4 (o) If any territory in the city is not included in one (1) of the districts
 5 established under this section, the territory is included in the district
 6 that:

7 (1) is contiguous to that territory; and

8 (2) contains the least population of all districts contiguous to that
 9 territory.

10 (p) If any territory in the city is included in more than one (1) of the
 11 districts established under this section, the territory is included in the
 12 district that:

13 (1) is one (1) of the districts in which the territory is described in
 14 the ordinance adopted under this section;

15 (2) is contiguous to that territory; and

16 (3) contains the least population of all districts contiguous to that
 17 territory.

18 SECTION 88. IC 36-5-2-4.1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) The legislative
 20 body may, by ordinance, divide the town into districts for the purpose
 21 of conducting elections of town officers.

22 (b) A town legislative body district must comply with the following
 23 standards:

24 (1) The district must be composed of contiguous territory, except
 25 for territory that is not contiguous to any other part of the town.

26 (2) The district must be reasonably compact.

27 (3) The district must contain, as nearly as is possible, equal
 28 population.

29 (4) The district may not cross a census block boundary except
 30 when following a precinct boundary line or ~~when~~ **unless** the
 31 ordinance specifies that the census block has no population and is
 32 not likely to ever have population.

33 (5) The district may not cross precinct lines, except as provided in
 34 subsection (c).

35 (c) The boundary of a town legislative body district established under
 36 subsection (a) may cross a precinct boundary line if:

37 (1) the legislative body provides by ordinance under section 5 of
 38 this chapter that all legislative body members are to be elected at
 39 large by the voters of the whole town; or

40 (2) the district would not otherwise contain, as nearly as is
 41 possible, equal population.

42 (d) If any territory in the town is not included in one (1) of the
 43 districts established under this section, the territory is included in the
 44 district that:

45 (1) is contiguous to that territory; and

46 (2) contains the least population of all districts contiguous to that
 47 territory.

48 (e) If any territory in the town is included in more than one (1) of the
 49 districts established under this section, the territory is included in the
 50 district that:

51 (1) is one (1) of the districts in which the territory is described in

the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(f) The ordinance may be appealed in the manner prescribed by IC 34-13-6. If the town is located in two (2) or more counties, the appeal may be filed in the circuit or superior court of any of those counties.

(g) This subsection does not apply to a town with an ordinance described by subsection (h). The division permitted by subsection (a) shall be made: ~~in 2002; every ten (10) years after that;~~

(1) during the second year after a year in which a federal decennial census is conducted, subject to IC 3-11-1.5-32; and

(2) when required to assign annexed territory to a municipal legislative body district.

The division may also be made in any other year.

(h) This subsection applies to a town having a population of less than three thousand five hundred (3,500). The town legislative body may adopt an ordinance providing that:

(1) town legislative body districts are abolished; and

(2) all members of the legislative body are elected at large.

(i) An ordinance described by subsection (h):

(1) may not be adopted or repealed during a year in which a municipal election is scheduled to be conducted in the town under IC 3-10-6 or IC 3-10-7; and

(2) is effective upon passage.

(j) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the town not later than thirty (30) days after the ordinance is adopted.

SECTION 89. IC 36-6-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) This section applies to townships in a county containing a consolidated city.

(b) The legislative body shall adopt a resolution that divides the township into legislative body districts that:

(1) are composed of contiguous territory;

(2) are reasonably compact;

(3) respect, as nearly as reasonably practicable, precinct boundary lines; and

(4) contain, as nearly as reasonably practicable, equal population.

(c) Before a legislative body may adopt a resolution that divides a township into legislative body districts, the secretary of the legislative body shall mail a written notice to the circuit court clerk. This notice must:

(1) state that the legislative body is considering the adoption of a resolution to divide the township into legislative body districts; and

(2) be mailed not later than ten (10) days before the legislative body adopts the resolution.

(d) The legislative body shall make a division into legislative body districts at the following times:

~~(1) in 2001;~~

1 ~~(2) Every ten (10) years after 2002:~~

2 **(1) During the second year after a year in which a federal**
 3 **decennial census is conducted.**

4 ~~(3) (2)~~ Subject to IC 3-11-1.5-32.5, whenever the boundary of the
 5 township changes.

6 (e) The legislative body may make the division under this section at
 7 any time, subject to IC 3-11-1.5-32.5.

8 SECTION 90. [EFFECTIVE UPON PASSAGE] **(a) This SECTION**
 9 **applies to an individual appointed to serve as a precinct election**
 10 **officer under IC 3-6-6-39.**

11 **(b) The secretary of state and election division may establish**
 12 **guidelines for an individual to serve in a nonpartisan manner. The**
 13 **guidelines adopted under this SECTION expire when the standards**
 14 **developed by the Help America Vote Foundation under 36 U.S.C.**
 15 **152602 for this purpose become effective.**

16 **(c) This SECTION expires January 1, 2009.**

17 SECTION 91. THE FOLLOWING ARE REPEALED [EFFECTIVE
 18 UPON PASSAGE]: IC 3-6-5.1-1; IC 3-6-7-2; IC 3-10-12-3;
 19 IC 3-11-8-28; IC 3-11.5-5-4; IC 3-11.7-5-6.

20 SECTION 92. **An emergency is declared for this act.**

(Reference is to ESB 341 as printed March 29, 2005.)

Conference Committee Report
on
Engrossed Senate Bill 341

Signed by:

Senator Lawson C
Chairperson

Representative Richardson

Senator Breaux

Representative Mahern

Senate Conferees

House Conferees